

HOUSE No. 323

By Mr. O'Brien of Kingston, petition of Thomas J. O'Brien for legislation to further regulate the retirement benefits of certain public employees. Public Service.

The Commonwealth of Massachusetts

In the Year Two Thousand and Five.

AN ACT FURTHER REGULATING THE RETIREMENT BENEFITS OF CERTAIN
PUBLIC EMPLOYEES.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Subdivision (2) of section 5 of chapter 32 of the
2 General Laws, as appearing in the 1998 Official Edition, is hereby
3 amended by inserting after paragraph (d) the following para-
4 graphs:—

5 (e) Any member of Group 1 who entered the service of the
6 Commonwealth on or after January 1, 1975, and any member of
7 Group 1 in the service of a political subdivision of the Common-
8 wealth, who has completed not less than 25 years of creditable
9 service may retire for superannuation; provided, however, that the
10 actuarial factor to be used to calculate the retirement allowance
11 for such person shall be 2.0, notwithstanding the age of such
12 person at the time of such retirement or any provision in para-
13 graph (a) to the contrary.

14 (f) Any member of Group 2 who entered the service of the
15 Commonwealth on or after January 1, 1975, and any member of
16 Group 2 in the service of a political subdivision of the Common-
17 wealth, who has completed not less than 25 years of creditable
18 service may retire for superannuation; provided, however, that the
19 actuarial factor to be used to calculate the retirement allowance
20 for such person shall be 2.5, notwithstanding the age of such
21 person at the time of such retirement or any provision in para-
22 graph (a) to the contrary.

1 SECTION 2. Subdivision (3) of section 21 of chapter 32, as
2 amended by section 1 of chapter 17 of the acts of 1997, is hereby
3 further amended by inserting after paragraph (f) the following
4 paragraph:—

5 (g) the review and analysis of information required under
6 section 26A as it relates to the employees' contribution rate
7 changes and benefit changes under said section 26A. Such
8 analysis shall focus on the contributions made by members and
9 the normal cost of benefit, plus any other liabilities determined by
10 the actuary to be the result of such benefit changes under said
11 section 26A. Beginning January 1, 2004 and every year thereafter,
12 the actuary shall forward to the respective system such analysis.

1 SECTION 3. Subdivision (1) of section 22 of chapter 32 of the
2 General Laws, as amended by section 176 of chapter 151 of the
3 acts of 1996, is hereby amended by striking out paragraph (b) and
4 inserting in place thereof the following paragraph:—

5 (b) The treasurer or other disbursing officer in charge of payroll
6 in any governmental unit to which a system pertains, and the trea-
7 surer or other disbursing officer in charge of payrolls in any free
8 public library the employees of which are eligible for membership
9 in a system, shall, upon written notice from the board, withhold on
10 each pay day five percent of the regular compensation of each
11 employee who is a member in service of the system, which is
12 received on such day by such member on account of service ren-
13 dered to him on or after January 1, 1946, and not later than the
14 date of his attaining the maximum age for his group, in the case of
15 an employee who entered the service of the commonwealth or a
16 political subdivision thereof prior to January 1, 1975; withhold on
17 each pay day seven percent of the regular compensation of each
18 employee who is a member in service of the system, which is
19 received on such day by such member on account of service ren-
20 dered by him on or after January 1, 1975, and not later than the
21 date of his attaining the maximum age for his group in the case of
22 an employee who entered the service of the commonwealth or a
23 political subdivision thereof on or after January 1, 1975 but prior
24 to January 1, 1984; and withhold on each pay day eight percent of
25 the regular compensation of each employee who is a member in
26 service of the system, which is received on such day by such

27 member on account of service rendered by him on or after January
28 1, 1984, and not later than the date of his attaining the maximum
29 age for his group in the case of an employee who entered the
30 service of the commonwealth or a political subdivision thereof on
31 or after January 1, 1984 but before July 1, 1996; and withhold on
32 each pay day nine percent of the regular compensation of each
33 employee who is a member in service of the system, which is
34 received on such day by such member on account of service ren-
35 dered by him on or after July 1, 1996, and not later than the date
36 of his attaining the maximum age for his group in the case of an
37 employee who entered the service of the commonwealth or a
38 political subdivision thereof on or after July 1, 1996; and withhold
39 on each pay day 12 percent of the regular compensation of each
40 employee who is a member of the state police appointed pursuant
41 to section ten of chapter 22C, and is a member in service of the
42 system, which is received on such day by such member on
43 account of service rendered by him on or after July 1, 1996, and
44 not later than the date of his attaining the maximum age for his
45 group in the case of such employee who entered the service of
46 said state police on or after July 1, 1996; and withhold on each
47 pay day 12 percent of the regular compensation of each public
48 safety officer, as defined in subdivision (1) of section 26A, who
49 elects to retire pursuant to the provisions of said section 26A or
50 who is referred to in subdivision (2) of said section 26A; pro-
51 vided, that in the case of any teacher such withholding shall be
52 made upon written notice from the school committee, board of
53 trustees or other employing authority, to the treasurer or other dis-
54 bursing officer of the political subdivision by which such teacher
55 is employed.

1 SECTION 4. Chapter 32 of the General Laws, as appearing in
2 the 1998 Official Edition, is hereby amended by inserting after
3 section 26 the following section:—

4 Section 26A. (1) For purposes of this section, “public safety
5 officer” shall mean any person who is classified under group 4
6 pursuant to the provisions of paragraph (g) of subsection (2) of
7 section 3 who is employed as: a uniformed member of a fire
8 department; a police officer in the division of law enforcement of
9 the department of fisheries, wildlife and recreational vehicles; a

10 permanent crash crewman, fire control man or assistant fire con-
11 trol man by the Massachusetts Port Authority at the General
12 Edward Lawrence Logan International Airport; a correction
13 officer, female correction officer, industrial instructor, recreation
14 officer, assistant industrial shop manager, industrial shop manager,
15 assistant to the supervisor of industries, supervisor of industries,
16 senior correction officer, senior female correction officer, super-
17 vising correction officer, supervising female correction officer,
18 prison camp officer, senior prison camp officer, supervising prison
19 camp officer, or assistant deputy superintendent employed by the
20 department of correction at any correctional institution or prison
21 camp under the control of said department; or a parole officer or
22 parole supervisor by the parole board.

23 (2) Any public safety officer employed as of the effective date
24 of this act shall be retired by the appropriate retirement board
25 upon his attaining age sixty-five; provided that any such public
26 safety officer who has performed service as a public safety officer
27 for not less than twenty years but including creditable service
28 granted by paragraph (h) of subdivision (1) of section four and
29 who has not attained the age of sixty-five may elect to retire pur-
30 suant to the provisions of this subdivision.

31 Any public safety officer employed after the effective date of
32 this act shall be retired by the appropriate retirement board upon
33 his attaining age sixty-five; provided that any such public safety
34 officer who has performed service as a public safety officer for
35 not less than twenty years but including creditable service granted
36 by paragraph (h) of subdivision (1) of section four and who has
37 not attained the age of sixty-five shall be retired pursuant to the
38 provisions of this subdivision.

39 (3) Upon retirement under the provisions of this subdivision, a
40 member shall receive a retirement allowance to become effective
41 on the date of his retirement. Payments under such retirement
42 allowance shall be made as provided for in sections twelve and
43 thirteen and the normal yearly amount thereof shall be equal to
44 sixty percent of the average annual rate of his regular compensa-
45 tion received by such member during any period of three consecu-
46 tive years of creditable service for which such rate of
47 compensation was the highest, or on the average annual rate of
48 regular compensation received by such member during the period

49 or periods, whether consecutive or not, is constituting his last
50 three years of creditable service preceding his retirement,
51 whichever is the greater, provided, that the total amount of the
52 allowance shall be increased by one-twelfth of three percent for
53 each full month of service in excess of twenty years of service;
54 provided, however, that such retirement allowance shall in no case
55 exceed seventy-five percent of such regular compensation. Any
56 such member retired under the provision of this subdivision who
57 is a veteran as defined in section one shall receive an additional
58 retirement allowance of fifteen dollars for each year of creditable
59 service or fraction thereof; provided, that the total amount of said
60 additional retirement allowance shall not exceed three hundred
61 dollars in any case.

62 (4) Any provision of sections one to twenty-eight, inclusive,
63 which are inconsistent with any provisions of this section, shall
64 not apply to any member so classified under this section; provided
65 however that any member with less than twenty years of cred-
66 itable service as a public safety officer upon retirement shall be
67 retired in accordance with the provisions of paragraphs (a) and
68 (b) of subdivision (2) of section five of chapter 32, and subject to
69 the limitations set forth in paragraphs (c) and (d) of said subdivi-
70 sion (2), and shall be based on such member's age and number of
71 years and full months of creditable service on the date the retire-
72 ment allowance becomes effective.

73 (5) The actuary, acting under the provisions of paragraph (g) of
74 subdivision (3) of section twenty-one, shall require each board to
75 obtain certain information from each member eligible for the
76 retirement benefit under this section, including the name, date of
77 birth, prior contribution rate, date of hire and any other informa-
78 tion required by the actuary for the purposes of the report required
79 under said paragraph (g).

1 SECTION 5. Any member of a retirement system who meets
2 the definition of public safety officer, as defined by section 26A
3 of chapter 32, on the effective date of this act may elect in writing
4 to participate in the alternative public safety retirement benefit
5 provided under said section 26A within 180 days of the effective
6 date of sections 1 to 7, inclusive, of this act. Any such election
7 shall become effective on the first day of the pay period next

8 following such election, and shall constitute a waiver of any
9 retirement benefits provided under section 5 or section 10 of
10 chapter 32. Any member making such election shall be required to
11 make a minimum of three years of retirement contributions at the
12 rate of 12 percent; provided, however, that if said member chooses
13 to retire before he has made said three years of contributions at 12
14 percent, said member shall pay into the annuity savings fund or
15 have deducted from his retirement allowance an amount equal to
16 the contributions that would have been made had such member
17 remained in service for three years at the rate of regular compen-
18 sation from which he retired. The election by an eligible member
19 to participate in the alternative public safety retirement benefit
20 provided for under said section 26A shall be irrevocable.

1 SECTION 6. The additional contributions required under para-
2 graph (b½) of subdivision (1) of section 22 shall not apply to any
3 public safety officer as defined by section 26A of said chapter 32.

1 SECTION 7. Any system may accept the provisions of
2 sections 1 to 6, inclusive, of this act by majority vote of the board
3 of each such system, subject to the approval of the legislative
4 body. For purposes of this paragraph “legislative body” shall
5 mean a town meeting in a town, the city council in a city, the
6 county retirement board advisory council in a county, and the dis-
7 trict members in a district. Acceptance shall be deemed to have
8 occurred upon the filing of a certification of such votes with the
9 commission. The state employees’ and state teachers’ retirement
10 systems shall be deemed to have accepted the provisions of said
11 sections 1 to 6, inclusive, on their effective date.

1 SECTION 8. Notwithstanding the provisions of chapter 32 of
2 the General Laws or any other general or special law to the con-
3 trary, the state board of retirement, established under the provi-
4 sions of section 18 of chapter 10 of the General Laws, shall
5 establish and implement a retirement incentive for public
6 employees, hereinafter referred to as the retirement incentive pro-
7 gram, in accordance with the provisions of sections 8 to 14, inclu-
8 sive, of this act; provided, that, in order to be deemed eligible by
9 said board for any of the benefit options under the retirement

10 incentive program, an employee (i) shall be an employee of the
11 commonwealth on the effective date of sections 8 to 14, inclusive,
12 of this act or shall have been a member in active service of the
13 state retirement system on January 1, 2000; (ii) shall be classified
14 in Group 1 of said retirement system in accordance with the provi-
15 sions of paragraph (g) of subdivision (2) of section 3 of said
16 chapter 32; (iii) shall be eligible to receive a superannuation
17 retirement allowance in accordance with the provisions of subdi-
18 vision (1) of section 5 of said chapter 32 or subdivision (1) of
19 section 17 of said chapter 32 upon the date of retirement requested
20 in his written application for retirement with said board; (iv) shall
21 have entered the service of the commonwealth or a political subdi-
22 vision thereof prior to January 1, 1975; (v) shall have accumulated
23 a total of not less than 25 years of creditable service pursuant to
24 the provisions of section 4 of said chapter 32; (vi) shall be
25 required to contribute not more than five percent of his regular
26 compensation pursuant to the provisions of paragraph (b) of sub-
27 division (1) of section 22 of said chapter 32 immediately prior to
28 the date of retirement requested in his written application for
29 retirement with said board; and (vii) shall have filed such written
30 application with said board in accordance with section 9 of this
31 act.

32 There shall be no limit of Group 1 employees who can receive
33 the benefit of such early retirement program; provided, however,
34 that the total number of employees paid through federal grant,
35 trust fund, bond account, or capital fund account who can receive
36 such benefit shall be limited to 500. No employee shall be eligible
37 for more than one of the incentives offered herein; and no
38 employee may become eligible for one incentive by virtue of the
39 application of a different incentive. Words used in sections 8 to
40 14, inclusive, of this act shall have the same meaning as in chapter
41 32 of the General Laws, unless otherwise expressly provided or
42 unless the context clearly requires otherwise. Any employee of the
43 commonwealth who retires and receives an additional benefit in
44 accordance with the provisions of sections 8 to 14, inclusive, of
45 this act shall be deemed to be retired for superannuation under the
46 provisions of said chapter 32 and shall be subject to any and all
47 provisions of said chapter.

1 SECTION 9. Notwithstanding so much of the provisions of
2 section 5 of chapter 32 of the General Laws that require a retire-
3 ment date within four months of the filing of an application for
4 superannuation retirement, in order to receive the retirement ben-
5 efit provided by sections 8 to 14, inclusive, of this act, an eligible
6 employee, except as otherwise provided in this section, shall file
7 his application for retirement under the provisions of sections 8 to
8 14, inclusive, of this act with the state retirement board after
9 May 1, 2000 and no later than June 15, 2000; provided, however,
10 that the retirement date requested shall be July 1, 2000.

11 The retirement date requested by an employee under the provi-
12 sions of this section, except as otherwise expressly provided, shall
13 be approved by the employee's appointing authority, if any; pro-
14 vided, however, that neither the employee's application nor any
15 other provision in such application shall require such approval.

1 SECTION 10. An employee who is eligible for the retirement
2 incentive program in accordance with the provisions of section 8
3 may request in his application for retirement that the state retire-
4 ment board credit him with an additional retirement benefit in
5 accordance with the provisions of option (a) or option (b), below,
6 for the purpose of determining his superannuation retirement
7 allowance pursuant to the provisions of paragraph (a) of subdivi-
8 sion (2) of section 5 of chapter 32 of the General Laws.

9 Option (a). Each such employee shall request and receive a
10 combination of years of creditable service and years of age, the
11 sum of which shall not be greater than 5 years.

12 Option (b). Each such employee shall request and receive a
13 retirement allowance based on a calculation using an actuarial
14 factor of 2.5, notwithstanding the age of such person at the time of
15 such retirement or any provision in paragraph (a) to the contrary.

16 Notwithstanding such credit, the total normal yearly amount of
17 the retirement allowance, as determined in accordance with the
18 provisions of said section 5 of said chapter 32, of any employee
19 who retires and receives the retirement benefit provided under
20 sections 8 to 14, inclusive, of this act shall not exceed 4/5 of the
21 average annual rate of his regular compensation as determined in
22 accordance with said section 5 of said chapter 32.

1 SECTION 11. For any married employee who retires and
2 receives an additional benefit under the provisions of sections 8 to
3 14, inclusive, of this act, an election of a retirement option under
4 the provisions of section 12 of said chapter 32 shall not be valid
5 unless (i) it is accompanied by the signature of the member's
6 spouse indicating the member's spouse's knowledge and under-
7 standing of the retirement option selected, or (ii) a certification by
8 the state board of retirement that such spouse has received notice
9 of such election as hereinafter provided. If any member who is
10 married files an election which is not so signed by his spouse, the
11 state board of retirement shall within 15 days notify the member's
12 spouse by registered mail of the option election, and the election
13 shall not take effect until 30 days following the date on which
14 such notification is sent, and such election may be changed by the
15 member at any time within 30 days, or at any other time permitted
16 under said chapter 32. Nothing in this section shall be deemed to
17 affect the effective date of any retirement allowance, but in the
18 event of any election having been filed which is not so accom-
19 panied, the payment of any allowance so elected shall not be com-
20 menced earlier than 30 days after the sending by the state board of
21 retirement of the notice required hereunder.

1 SECTION 12. The state board of retirement shall provide
2 retirement counseling to employees who choose to consider
3 retiring or who choose to retire under the retirement incentive pro-
4 gram established by sections 8 to 14, inclusive, of this act. Such
5 counseling shall include, but not be limited to, the following: (i) a
6 full explanation of the retirement benefits provided by sections 8
7 to 14, inclusive, of this act; (ii) a comparison of the expected life-
8 time retirement benefits payable to such employee under the
9 retirement incentive program and under the existing provisions of
10 chapter 32 of the General Laws; (iii) the election of a retirement
11 option under the provisions of section twelve of said chapter 32;
12 (iv) the restrictions on employment after retirement; (v) the provi-
13 sion of health care benefits under the provisions of chapter 32A of
14 the General Laws; (vi) the provisions of law relative to the pay-
15 ment of cost of living adjustments to the retirement allowance, in
16 years in which there is such an adjustment; and (vii) the effect of
17 federal and state taxation on retirement income. Each such

18 employee shall sign a statement that he has received such coun-
19 seling or that he does not want to receive such counseling prior to
20 the approval by the state board of retirement of such employee's
21 application for superannuation benefits and the additional benefit
22 provided under the provisions of sections 8 to 14, inclusive, of
23 this act.

1 SECTION 13. The public employee retirement administration
2 commission shall analyze, study, and value the costs and actu-
3 arial liabilities attributable to the additional benefits payable in
4 accordance with the provisions of section 10 of this act; provided
5 that said commission shall file the report with the joint committee
6 on public service and the house and senate committees on ways
7 and means on or before December 31, 2000.

1 SECTION 14. The secretary of administration shall prepare a
2 funding schedule which shall reflect the costs and actuarial liabili-
3 ties attributable to the additional benefits payable under the retire-
4 ment incentive program in accordance with the provisions of
5 section 10 of this act and said schedule shall be designed to
6 reduce the commonwealth's additional pension liability attribut-
7 able to such costs and liabilities to zero on or before June 30,
8 2018; provided, that in preparing such schedule, the secretary
9 shall consider the analysis of the public employee retirement
10 administration commission filed in accordance with the provisions
11 of section 16 of this act; and provided further, that said secretary
12 shall annually update such schedule until said June 30, 2018. Said
13 secretary shall file such funding schedule with the joint committee
14 on public service and the house and senate committees on ways
15 and means on or before March 1, 2001, and shall file updates
16 thereto annually on or before March 1 of each year; provided,
17 that, if within 45 days of each such filing, none of the committees
18 shall have taken action to disapprove such schedule or update
19 thereto, such schedule or update shall be deemed to be approved;
20 provided, further, that if such schedule is not so approved, said
21 secretary shall review any comments made by such committees
22 and prepare and submit for approval in like manner another
23 schedule. In each of the fiscal years until the actuarial liability
24 determined under this and the preceding section of this act shall

25 be reduced to zero, it shall be deemed an obligation of the com-
26 monwealth to fund such liability and there shall be appropriated to
27 the pension reserve investment trust fund in each such fiscal year
28 the amount required by the funding schedule and the updates
29 thereto approved under the provisions of this section.